

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BLACKROCK ALLOCATION TARGET SHARES: SERIES S PORTFOLIO, <i>et al.</i> ,  Plaintiffs,  v.  WELLS FARGO BANK, NATIONAL ASSOCIATION,  Defendant.	No. 1:14-cv-09371-KPF-SN
ROYAL PARK INVESTMENTS SA/NV,  Plaintiff,  v.  WELLS FARGO BANK, N.A.,  Defendant.	No. 1:14-cv-09764-KPF-SN
PHOENIX LIGHT SF LIMITED, <i>et al.</i> ,  Plaintiffs,  v.  WELLS FARGO BANK, N.A.,  Defendant.	No. 1:14-cv-10102-KPF-SN
NATIONAL CREDIT UNION ADMINISTRATION BOARD, <i>et al.</i> ,  Plaintiffs,  v.  WELLS FARGO BANK, N.A.,  Defendant.	No. 1:14-cv-10067-KPF-SN
COMMERZBANK AG,  Plaintiff,  v.  WELLS FARGO BANK, N.A.,  Defendant.	No. 1:15-cv-10033-KPF-SN

**NOTICE OF COORDINATED PLAINTIFFS' RULE 72 OBJECTIONS  
AND MOTION TO VACATE THE MAGISTRATE JUDGE'S  
OPINION AND ORDER CONCERNING SAMPLING**

PLEASE TAKE NOTICE that Plaintiffs in the five above-captioned coordinated actions, namely, Blackrock Allocation Target Shares: Series S Portfolio, Royal Park Investments SA/NV, Phoenix Light SF Limited, National Credit Union Administration Board, as liquidating agent, Commerzbank AG, collectively “Coordinated Plaintiffs,” relying upon (i) the Memorandum of Law in Support of Coordinated Plaintiffs’ Rule 72 Objections and Motion to Vacate the Magistrate Judge’s Opinion and Order Concerning Sampling; (ii) the Declaration of Scott K. Attaway and exhibits thereto; and (iii) all prior proceedings and matters of record in these cases, will move this Court before the Honorable Katherine Polk Failla, United States District Judge, Southern District of New York, at the United States Courthouse, 40 Foley Square, New York, NY 10007, on a date to be determined by the Court, for an order pursuant to Federal Rule of Civil Procedure 72: (i) vacating the February 24, 2017 bottom-line Order and the March 10, 2017 Opinion and Order issued by the Honorable Sarah Netburn, United States Magistrate Judge, precluding plaintiffs from re-underwriting a sampling of loans for the purpose of proving liability or damages beyond the loans in the sample, as entered in each of these five actions,<sup>1</sup> (ii) holding that “discovery” as used in the operative agreements means constructive knowledge as set forth in Plaintiffs’ Memorandum; and (iii) authorizing plaintiffs’ proposed use of sampling to support their cases at trial.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court’s March 14, 2017 Order, Defendant shall file any opposition brief by April 28, 2017, and Plaintiffs shall file any reply brief by May 5, 2017.

---

<sup>1</sup> *Blackrock*, ECF Nos. 365 & 376, Case No. 1:14-09371-KPF-SN; *Royal Park*, ECF Nos. 260 & 273, Case No. 1:14-cv-09764-KPF-SN; *Phoenix Light*, ECF Nos. 271 & 282, Case No. 1:14-cv-10102-KPF-SN; *NCUA*, ECF Nos. 253 & 263, Case No. 1:14-cv-10067-KPF-SN; *Commerzbank*, ECF Nos. 188 & 204, Case No. 1:15-cv-10033-KPF-SN.

Oral argument is requested. Plaintiffs will file a letter request pursuant to the Court's Individual Rule 4.E in due course.

Dated: April 7, 2017

Respectfully submitted,

BERNSTEIN LITOWITZ BERGER &  
GROSSMAN LLP

ROBBINS GELLER RUDMAN  
& DOWD LLP

/s/ Timothy A. DeLange

BLAIR A. NICHOLAS  
TIMOTHY A. DeLANGE  
BENJAMIN GALDSTON  
RICHARD D. GLUCK  
BRETT M. MIDDLETON  
NIKI L. MENDOZA  
LUCAS E. GILMORE  
ROBERT S. TRISOTTO  
12481 High Bluff Drive, Suite 300  
San Diego, CA 92130  
Tel: (858) 793-0070  
Fax: (858) 793-0323

/s/ Christopher M. Wood

CHRISTOPHER M. WOOD  
414 Union Street, Suite 900  
Nashville, TN 37219  
Tel: (615) 244-2203  
Fax: (615) 252-3798

*Counsel for Plaintiff Royal Park Investments  
SA/NV*

*Counsel for Plaintiffs BlackRock Allocation  
Target Shares: Series S Portfolio, et al.*

WOLLMUTH MAHER & DEUTSCH LLP

WOLLMUTH MAHER & DEUTSCH LLP

/s/ Steven S. Fitzgerald

DAVID H. WOLLMUTH  
STEVEN S. FITZGERALD  
RANDALL R. RAINER  
NIRAJ J. PAREKH  
500 Fifth Avenue  
New York, NY 10110  
Tel: (212) 382-3300  
Fax: (212) 382-0050

/s/ Ryan A. Kane

DAVID H. WOLLMUTH  
RYAN A. KANE  
NIRAJ J. PAREKH  
500 Fifth Avenue  
New York, NY 10110  
Tel: (212) 382-3300  
Fax: (212) 382-0050

*Counsel for Plaintiffs Phoenix Light SF  
Limited, et al.*

*Counsel for Plaintiff Commerzbank AG*

KOREIN TILLERY LLC  
GEORGE A. ZELCS  
JOHN A. LIBRA  
MATTHEW C. DAVIES  
MAX C. GIBBONS  
205 North Michigan Plaza, Suite 1950  
Chicago, IL 60601  
Tel: (312) 641-9750  
Fax: (312) 641-9760  
-and-  
STEPHEN M. TILLERY  
505 North Seventh Street, Suite 3600  
St. Louis, MO 63101-1625  
Tel: (314) 241-4844  
Fax: (314) 241-3525  
-and-

KELLOGG, HANSEN, TODD, FIGEL &  
FREDERICK, P.L.L.C.

/s/ Scott K. Attaway  
DAVID C. FREDERICK  
SCOTT K. ATTAWAY  
MATTHEW M. DUFFY  
FREDERICK GASTON HALL  
KELLOGG, HANSEN, TODD,  
FIGEL & FREDERICK, P.L.L.C.  
Sumner Square  
1615 M Street, N.W.  
Suite 400  
Washington, DC 20036  
Tel: (202) 326-7900  
Fax: (202) 326-7999

*Counsel for Plaintiff NCUA Board, as  
Liquidating Agent*

Pursuant to this Court's ECF Rule 8.5(b),  
counsel for NCUA represents that counsel  
for these Coordinated Plaintiffs have  
consented to the placement of their  
electronic signatures on this document.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 7, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send a Notice of Electronic Filing upon all counsel of record.

/s/ Scott K. Attaway  
Scott K. Attaway